

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 8156

BILL NUMBER: HB 2027

DATE PREPARED: Mar 9, 1999

BILL AMENDED: Mar 8, 1999

SUBJECT: Loan brokers.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill makes numerous changes concerning the regulation of loan brokers by the Securities Commissioner. A loan broker must be licensed. An employee of a loan broker must be registered if the person engages in loan origination activities for a loan broker. Licensees and registrants must receive at least 24 hours (or 12 hours for renewal licensees or registrants) of academic instruction in order to be licensed or registered after December 31, 2000. The penalty for the violation of the loan broker statute is increased from a Class D felony to a Class C felony. A transferor or assignor of a mortgage must file written notice with the county recorder stating the location and business address of the entity accepting the transfer or assignment. This bill makes certain other changes.

Effective Date: (Amended) July 1, 1999; January 1, 2000.

Explanation of State Expenditures: This bill requires that a loan broker must be licensed. (Currently, brokers are registered.) The Securities Division within the Secretary of State's Office will oversee the implementation of the above. However, the Division does not anticipate any additional expenses that can not be covered given the current budget.

The penalty for the violation of the loan broker statute is increased from a Class D felony to a Class C felony. State expenditures would increase if an offender is incarcerated in a state prison for a longer period of time. A Class D felony is punishable by a prison term ranging between 6 months to 3 years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from 2 to 8 years. The average expenditure to house an adult offender was \$20,500 in FY 97. Individual facility expenditures range from \$11,000 to \$27,000. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily per prisoner. The average length of stay in DOC facilities for all Class C felony offenders is approximately one year, seven months.

Explanation of State Revenues: (Revised) The initial license fee for a loan broker is set at \$200. (Currently, the registration fee is \$250.) Currently, there are 1,367 registered brokers. Approximately 350 obtain an initial license each year. The current fee generates approximately \$130,000 to \$150,000 each year, including renewals. The proposed license fee is \$50 less than the current registration fee. If 350 individual elect to obtain a license every year, the reduced fee will result in a revenue loss of about \$17,500 each year. However, because there has been a significant increase in the number of individuals who are entering the loan brokerage business in recent years, the loss in revenue may be made up by additional applicants.

Licenses are not required until January 1, 2001.

This bill also increases from \$25,000 to \$50,000 the amount of bond that a licensee must maintain in favor of the state to secure payment of damages to any person aggrieved by any violation of the statute governing licensure. This provision would provide additional revenue for the state to cover expenditures.

This bill increases the maximum civil penalty that may be imposed for violations of the securities regulation provisions from \$5,000 to \$10,000. The table below shows the total fines assessed against violators of the securities regulation provisions in the last five calendar years. However, it should be noted that fines assessed loan brokers make up a small portion of the total amount of fines collected.

<u>Year</u>	<u>Fines Imposed</u>
1994	\$114,950
1995	\$881,380
1996	\$423,889
1997	\$857,370
1998	\$1,122,915

Penalties collected are deposited in the Securities Division Enforcement Fund.

With respect to the changes in the penalty for violations of the loan brokerage law, no change would likely occur in state revenue as a result of this bill because criminal fines and court fees are the same for either Class D or C felonies.

Explanation of Local Expenditures: (Revised) This bill requires that a transferor or assignor of a mortgage must file written notice with the county recorder stating the location and business address of the entity accepting the transfer or assignment. The county recorder must enter the notice into the record of the property. This provision may increase administrative expenses for the county by an indeterminable amount.

Explanation of Local Revenues: No additional revenues would be expected since the court fees for Class D and Class C are both \$120.

State Agencies Affected: Securities Division of the Secretary of State and Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies, and counties.

Information Sources: Heather Fesko, Legislative Liaison, Office of the Secretary of State, (317) 232-6587; Bradley Skolnik, Securities Commissioner, Office of the Secretary of State, (317) 232-6681; Indiana Sheriffs Association, Department of Correction.